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Aston against the Ætna Insurance Company. Verdict for plaintiff, motion to set aside the verdict overruled, and judgment for plaintiff, and defendant brings error. Affirmed.

*John W. Price and Caskie & Caskie*, for the plaintiff in error.

*White, Penn & Penn*, and *J. J. Stuart*, for the defendant in error.

GREGORY et al. v. HUBARD, County Clerk.

Sept. 19, 1918.

[96 S. E. 775.]

**1. Mandamus (§ 16 (1)\*)—Right to Writ—Ineffectual Relief.—**

Where petitioners for mandamus to obtain a certificate of election as members of a town council had already qualified as members, and where, under Code 1904, § 1030, the council was the judge of the election and returns of its members, the object of the petition had been accomplished as to them, and their petition will be refused.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 519.]

**2. Elections (§ 259\*)—Meeting of Commissioners—"Public Place."**

—Under Code 1904, § 135, requiring that the meeting of election commissioners shall be in public, a meeting in office of county clerk is in a "public place," and none the less so because no one is present except the commissioners, the deputy clerk, and counsel for persons elected.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Public Place. For other cases, see 5 Va.-W. Va. Enc. Dig. 27.]

**3. Elections (§ 259\*)—Canvass of Vote—Directory Statute.—**Code 1904, § 133, requiring commissioners of election to canvass returns on second day after election, is directory, and failure to comply therewith will not deprive a mayor of the benefit of an election, as the commissioners may thereafter canvass returns, or, if they fail to do so, may be compelled.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 27.]

**4. Mandamus (§ 77 (2)\*)—County Clerk—Certificate of Election.**

—Where county clerk, required by Code 1904, § 137, to "immediately make out" a certificate of election as mayor of a town and to deliver it to him on his request, failed to do so without good reason, mandamus will lie to compel him to issue and deliver the certificate.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 527, 535.]

Application for mandamus by E. D. Gregory, B. H. Barnes, and C. T. Apperson against W. J. Hubbard, County Clerk of Buckingham County. Writ refused as to petitioners Barnes and Apperson, and awarded to petitioner Gregory.

*Moon & Pitts*, for the petitioners.

(No appearance for respondent.)

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.